

Trademark Administration and Licensing Guidelines for the University of Massachusetts System

Description/Purpose

The University's marks and the reputation they represent are important and valuable assets. On behalf of the University and the Trustees of the University of Massachusetts, the primary roles of the Office of Trademark Administration and Licensing are to protect and promote the use of the University's marks. Besides its substantial external licensing activities, the University's Office of Trademark Administration and Licensing also monitors and regulates commercial and non-commercial internal use of the marks and is responsible for the administration of the University's trademarks and service marks in the United States and countries worldwide.

These guidelines establish the principles and procedures followed by the Office of Trademark Administration and Licensing to perform the following functions:

- Promote the University of Massachusetts in a consistent and uniform manner;
- Protect all of the institutions trademarks, service marks, logos, names, and symbols from unauthorized internal or external use, whether commercial or non commercial;
- Protect consumers from inferior products or services bearing the institution's marks;
- Provide revenue to the University when licensing royalties and fees exceed program expenses.

Regulation of all uses of the University of Massachusetts marks is essential to protect the University's trademark rights and image and to protect against dilution of the marks. If the University fails to enforce its trademark ownership rights, it will risk losing them. The University of Massachusetts enforces the ownership and proper use of its marks, names, symbols, and other indications of its identity. The University's Office of Trademark Administration and Licensing actively polices the market on campus and off campus, – including the Internet, investigating and attempting to prevent counterfeit, unauthorized, and unlicensed use. Merchandise or services produced or offered without a license may be considered “counterfeit” and subject to all legal remedies, including seizure of the merchandise. University approval through the Office of Trademark Administration and Licensing is required for all commercial use and some non-commercial use of the University marks, whether for fund raising, sale, advertising, or promotion. Unauthorized use (noncommercial or commercial) could effectively prevent the University from retaining and enforcing its rights both practically in the commercial market and as a matter of law.

Definitions

A trademark is a word, symbol, or design, or a combination of these, which indicates the source of goods and distinguishes the goods of one party from those of another. A service mark is the same as a trademark, except that it identifies and distinguishes a “service” rather than a “product.” The owner of a trademark or service mark may exclude others from using that trademark or service mark or a mark that is substantially similar. The “UMASS” and “University of Massachusetts” trademarks and service marks are the exclusive property of the Trustees of the University of Massachusetts. The marks

include any trademark, service mark, name, certain phrases, logo, insignia, seal design, or other symbol or device associated with or referring to the University. Common law rights, Commonwealth of Massachusetts law, federal law, and international law protect the marks.

Applicability

The policy applies to University community members who produce, requisition, or procure goods or services bearing the University name or University of Massachusetts marks and logos. The policy applies to entities outside the University community that wish to produce, distribute, or sell products or services using the University's name or bearing the University's marks regardless of use or method of distribution.

Authority for Program Administration

The Director of the University's Office of Trademark Administration and Licensing is responsible for negotiating and implementing all license agreements and contracts. No other office, department or unit is authorized to perform trademark licensing administration. Controversial products, issues, or enforcement activities will be reviewed with the appropriate Campus or President's Office administrator with advice from the Office of the General Counsel.

Address:

**Office of Trademark Administration and Licensing
Director of Licensing and Trademarks
University of Massachusetts
Room 920 Campus Center
Amherst, MA 01003
413-577-8125**

Internal University Community

No organization, department, unit, faculty, staff, or student of the University may authorize any third party to produce (or produce themselves) merchandise or to perform (or perform themselves) a service bearing the University's name or marks, unless it is specifically permitted by the University of Massachusetts Trademark Administration and Licensing Policy or these guidelines. No organization, department, unit, faculty, staff, or student may authorize any third party to produce (or produce themselves) items that combine the University name or marks with any third party name or logo, unless prior, written approval is granted by the Office of Trademark Administration and Licensing. Only officially licensed products may be advertised and sold with the University of Massachusetts name or trademarks on them.

Internal Use -- Non-Commercial

Use of the University names and marks by officially recognized University organizations and units is permitted within the guidelines of each campus's Visual Identity Guide. The University names and marks may be used only for identification purposes for campus groups' or departments' own use, such

as, stationery, posters, signs, banners, and uniforms, limited to use by their members. Those products must be purchased from organizations that have received written approval or license from the Office of Trademark Administration and Licensing to make those products. Official publications made for University purposes and approved by the University for distribution are considered non-commercial. Use of the University's names and marks by independent organizations, individuals, or groups is prohibited without prior approval of the Office of Trademark Administration and Licensing.

Internal Use -- Commercial

All University of Massachusetts organizations or individuals using the names marks, logos, seals, and/or symbols of the University in any commercial venture, whether fund raising or promotion, are required to seek prior approval from the Office of Trademark Administration and Licensing for the use of those marks. Products given away to an internal audience which display any University mark and the name or mark of the department or student organization may qualify for an exemption from payment of licensing royalties. A waiver form must be completed and signed by the organization and the vendor prior to project initiation. Waiver forms are available from the Office of Trademark Administration and Licensing. All products must be purchased from a licensed manufacturer. Royalty waivers may be granted by the Office of Trademark Administration and Licensing in the following instances:

- Officially recognized University organizations or units procuring a product for internal use of its members;
- Official University fund raising efforts; and
- In conjunction with University agreements where a third party is already providing sufficient direct compensation to the University;

External Use

No external use of the University marks is allowed without written approval or license by the Office of Trademark Administration and Licensing prior to use. External Use includes:

- The manufacture and distribution of all commercial and consumer products;
- Advertising and promotion;
- Domain names and Internet commercial use;
- University marks used in conjunction with commercial ventures or intellectual property licenses;
- All consumer products and services for resale or giveaway.

Internet and Website Use

No commercial website use of the University's name or marks is permitted without prior, written approval by Office of Trademark Administration and Licensing. Commercial use on websites includes all products and services for sale or give-away, as well as, the use of site advertising, banners, and commercial links. No University name or mark can be used in the domain name of a commercial website without a license and prior, written approval by the Office of Trademark Administration and

Licensing. Websites employing Meta-tags utilizing the University's names and marks to bring Internet users to a commercial site through search engines may only be operated after execution of a license approved by the Office of Trademark Administration and Licensing.

Agreements and Contracts

All University agreements and contracts that allow an external organization, company, or individual to use the University's names or marks as part of and/or in conjunction with that agreement or contract require a license agreement issued by the Office of Trademark Administration and Licensing to control the use of the marks and to protect the University from liability. This includes sponsorships, grants, promotions, and Internet applications as well as all other agreements that allow for external use of the University marks or names. No party to a University agreement or contract may assign or sublicense the right to use the University name or marks to a third party. All such third parties must seek their own independent license agreement with the University through the Office of Trademark Administration and Licensing.

Proper use of the Trademarks in Advertising

It is the general policy of the University of Massachusetts to avoid the endorsement of any commercial product or service. University marks cannot be used in an explicit endorsement of any product or service. However, University marks or logos may be used in conjunction with another corporate mark in some situations with the prior, written approval of the Office of Trademark Administration and Licensing, for example, on a temporary basis by a commercial establishment in support of the University, as in a banner, poster, or product container saying "Go UMASS," "Go Minutemen," or "Go Riverhawks." An executed promotional Licensing Agreement would be required if the company name is to appear in conjunction with the sponsor's own corporate name. The Office of Trademark Administration and Licensing has the right to prohibit any use when it is deemed to be in bad taste or in violation of trademark and licensing policy. Advertising that displays or lists the University as a user of a product or service or as the source of research information on which a commercial product, program, or publication is based is prohibited without a trademark license agreement in conjunction with a formal contract, sponsorship agreement, or intellectual property agreement. This prohibition extends to advertising or promotion using any name, picture, landmark building, or other indications of the identity of the University or a campus.

A personal endorsement with an identification of the person's relationship to the University of Massachusetts is acceptable as long as there is no confusion as to institutional endorsement.

The registered trademark symbol ® should appear after the first or most prominent use of the "University of Massachusetts" and its registered marks, i.e., "University of Massachusetts ®," "UMASS®," and the "[SEAL]®." The "TM" mark should appear after the first or most prominent use of all other names, marks, logos, or indicia of the University.

Photos with readily identifiable University of Massachusetts buildings, such as, the Chapel or Library on the Amherst campus or the silhouette of the buildings on the Dartmouth or Boston campuses, are not acceptable in advertising or promotions without prior, written permission from the Office of Trademark Administration and Licensing.

In advertising cases when “UMASS” or “ University of Massachusetts” is used as a descriptive location, it should be replaced with “Amherst,” “Boston,” “Lowell,” “Dartmouth,” or “Worcester.” The location “UMASS” or “ University of Massachusetts” is easily confused with the institution “UMASS” or “University of Massachusetts.” An example would be a business that says “Serving UMASS.” Proper usage would dictate “Serving Amherst” or “Serving the University of Massachusetts area.” It is necessary to make clear that the *service* is to the location, and not to the institution.

Obtaining a License

Product and service licenses will be granted to those companies, organizations, or individuals that meet all the requirements and standards established by the University and whose products, services, or promotions are judged by the Office of Trademark Administration and Licensing to be appropriate to the University.

Prohibited Products

The University of Massachusetts will not license its marks for products or services that defame the University or are dangerous, harmful, shoddy, or obscene or whose characteristics or manufacture are otherwise deemed inappropriate.

License Terms

The license agreement will specify the particular marks and the specific products or services that can be used.

The License is usually non-exclusive and defines the geographical area in which the licensee is given the right to manufacture and distribute products or services.

The term or length of the contract is specified along with the royalty rate on the cost of all products or services sold.

Comprehensive general or commercial liability insurance in the amount of at least one million dollars is required, naming the employees and Trustees of the University of Massachusetts as additional insureds.

After a license agreement is executed, approval from the Office of Trademark Administration and Licensing must be obtained for each individual product or service that is developed with the University of Massachusetts marks prior to any sale or distribution, including posting on commercial Internet sites. The licensee is required to submit all advertising, marketing, and products for approval at various stages of development. In addition, all products must bear the appropriate trademark designation and the Licensee's identification. The University of Massachusetts expects its licensees to conduct their business in a manner consistent with work place standards that adhere to the University of Massachusetts Code of Conduct for Licensees. All apparel licensees must agree to adhere to the University of Massachusetts Code of Conduct for Licensees as part of the license. A copy of the Code of Conduct for Licensees is attached to the license agreement and is available by contacting the Office

of Trademark Administration and Licensing. The University has the right to terminate any license immediately for failure to comply with the Code of Conduct.

Royalty Income

Royalty income that exceeds the cost of administering the Licensing Program is proportionally returned to the Chancellor for each campus or the Chancellor's designee. The proportion of royalties is determined by each campus's actual use as reported by licensed manufacturers. Any royalties that exceed expenses and cannot be identified by campus are returned annually as a percentage based on that campus's number of students and alumni. Royalty income is used for the support of the mission of the University and is determined by each campus's Chancellor or designee.